

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF THE
KINGDOM OF DENMARK (SKAT) TAX REFUND
LITIGATION

MASTER DOCKET
1:18-md-02865 (LAK)

This paper applies to:

1:18-cv-04047, 1:18-cv-04049, 1:18-cv-04050, 1:18-cv-04051,
1:18-cv-04052, 1:18-cv-04430, 1:18-cv-04522, 1:18-cv-04531,
1:18-cv-04536, 1:18-cv-04538, 1:18-cv-04541, 1:18-cv-04543,
1:18-cv-04767, 1:18-cv-04770, 1:18-cv-04771, 1:18-cv-04890,
1:18-cv-04892, 1:18-cv-04896, 1:18-cv-04898, 1:18-cv-04900,
1:18-cv-05045, 1:18-cv-05057, 1:18-cv-05147, 1:18-cv-05150,
1:18-cv-05151, 1:18-cv-05158, 1:18-cv-05164, 1:18-cv-05180,
1:18-cv-05183, 1:18-cv-05185, 1:18-cv-05186, 1:18-cv-05188,
1:18-cv-05189, 1:18-cv-05190, 1:18-cv-05192, 1:18-cv-05193,
1:18-cv-05194, 1:18-cv-05299, 1:18-cv-05300, 1:18-cv-05305,
1:18-cv-05307, 1:18-cv-05308, 1:18-cv-05309, 1:18-cv-09565,
1:18-cv-09570, 1:18-cv-09587, 1:18-cv-09588, 1:18-cv-09589,
1:18-cv-09590, 1:18-cv-09650, 1:18-cv-09665, 1:18-cv-09666,
1:18-cv-09668, 1:18-cv-09669, 1:18-cv-10028, 1:18-cv-10030,
1:18-cv-10031, 1:18-cv-10032, 1:18-cv-10035, 1:18-cv-10036,
1:18-cv-10039, 1:18-cv-10049, 1:18-cv-10060, 1:18-cv-10061,
1:18-cv-10062, 1:18-cv-10063, 1:18-cv-10064, 1:18-cv-10065,
1:18-cv-10066, 1:18-cv-10069, 1:18-cv-10070, 1:18-cv-10071,
1:18-cv-10073, 1:18-cv-10074, 1:18-cv-10076, 1:18-cv-10077,
1:18-cv-10080, 1:18-cv-10082, 1:18-cv-10083, 1:18-cv-10086,
1:18-cv-10091, 1:18-cv-10092, 1:18-cv-10093, 1:18-cv-10094,
1:18-cv-10095, 1:18-cv-10096, 1:18-cv-10098, 1:18-cv-10099,
1:18-cv-10119, 1:18-cv-10122, 1:18-cv-10123, 1:18-cv-10124,
1:18-cv-10125, 1:18-cv-10126, 1:18-cv-10129, 1:18-cv-10133,
1:18-cv-10134, 1:18-cv-10135, 1:18-cv-10136.

MOTION FOR ADMISSION *PRO HAC VICE* OF HELENE MÜLLER SCHWIERING

PLEASE TAKE NOTICE that the undersigned attorney, duly licensed to appear before, and practice within, the jurisdiction of this Court, respectfully moves before this Court for an Order for admission *pro hac vice* of Helene Müller Schwiering to appear as co-counsel for the Defendants

identified in the Appendix A (“List of Defendants”) annexed hereto in the above-captioned consolidated multi-district action and within the specific individual actions identified in said List of Defendants (the “Defendants”) pursuant to Rule 1.3(c) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York.¹ Specifically, the undersigned seeks to allow Ms. Schwiering to participate as co-counsel for the Defendants at certain depositions of Danish witnesses, oral arguments and other proceedings specifically requiring her particular expertise in Danish law and language under supervision and guidance of U.S. co-counsel.

This Motion is supported by the Affidavit of Helene Müller Schwiering, with Certificates of Good Standing attached thereto as Exhibit 1 (collectively the “Schwiering Affidavit”), which contains all of the information required by Local Rule 1.3(c). As explained in the Schwiering Affidavit, Helene Müller Schwiering is a member in good standing of the bars of the Kingdom of Denmark and Grand Duchy of Luxembourg and (1) has never been convicted of a felony; (2) has never been censured, suspended, disbarred or denied admission or readmission by any court; (3) has no disciplinary proceedings presently against her; and (4) has been specifically retained by the

¹ While it is acknowledged that “Local Rule 1.3(c) does not specifically provide for the *pro hac vice* admission of an attorney admitted to practice only in a foreign country,” courts have nevertheless “held that the decision to admit an attorney who is admitted to practice only in a foreign country rests ‘within the sound discretion of the district court,’ ... and should be made ‘on a case-by-case basis, considering the local rules’ requirements for *pro hac vice* admission, the nuances of the particular case for which the attorney seeks to be admitted, and the attorney’s level of knowledge of the federal practice in the United States, including familiarity with the Federal Rules of Civil Procedure and Federal Rules of Evidence.” U.S. v. CLGE, Inc., No. 14–CV–6792 (SJF)(GRB), 2015 WL 2124792, at *2 (E.D.N.Y. May 6, 2015) (internal and external citations omitted); see also In re Livent, Inc., No. 98 Civ.5686(VM)(DFE), 98 Civ.7161(VM)(DFE), 2004 WL 385048, at *3 (S.D.N.Y. Mar. 2, 2004) (“The Western District of New York and the state courts of New York specifically provide that an attorney from a foreign country may be admitted *pro hac vice*. ... Our Court’s *pro hac vice* rule, Local Civil Rule 1.3(c), omits any mention of an attorney of a foreign country. But admission *pro hac vice* is a sensible exercise of discretion on the particular facts of this litigation.”) (internal citations omitted).

Defendants to defend them in this action and does, indeed, counsel the Defendants in the nuances of Danish law.

Ms. Schwiering has represented the Defendants for the past three (3) years in Europe and overseeing the litigation in the United States. She is thoroughly familiar with the legal issues involved in this matter many of which involve questions about application of the law of the Kingdom of Denmark related to, *inter alia*, Danish contracts, tax, tax dividend reclaims and arbitration. Moreover, Ms. Schwiering has a comprehensive fluency in the nuances of the Danish business and legal language and terms which will be extremely helpful if this motion was granted and she was authorized to participate in depositions of, in particular, SKAT representatives and other third-party Danish witnesses.

As preponderantly set forth in the Schwiering Affidavit, Ms. Schwiering “‘is familiar with the Federal Rules of Civil Procedure, the Local Rules for the Southern District of New York, this Court’s Individual Rules, and the customs and practices of this Court,’ ... and that [Ms. Schwiering] will conduct [herself] professionally and ethically, and will not disrupt the proper functioning of the Court.” Sedona Corp. v. Ladenburg Thalmann & Co., Inc., No. 03Civ.3120(KMW)(THK), 2003 WL 22339357, at *3 (S.D.N.Y. Oct. 14, 2003) (internal citation omitted). Based upon the foregoing, as further articulated in the Schwiering Affidavit, the Defendants respectfully request that the Court find in its sound discretion that Helene Müller Schwiering is “qualified to practice in this Court,” CLGE, Inc., *supra*, 2015 WL 2124792, at *2, and grant her admission *pro hac vice* pursuant to Local Rule 1.3(c).

Defendants requested that Plaintiff consent to the relief sought by this Motion but, as of the date of filing, Defendants have received no definitive answer from Plaintiff.

Respectfully submitted,

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s/ *Joseph LoPiccolo*

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Dated: New York, New York
June 3, 2021

APPENDIX A

LIST OF DEFENDANTS

1. The Bradley London Pension Plan and Doston Bradley in 1:18-cv-04047;
2. The DMR Pension Plan and Doston Bradley in 1:18-cv-04049;
3. The Houston Rocco LLC 401K Plan and Doston Bradley in 1:18-cv-04050;
4. The Proper Pacific LLC 401K Plan and Doston Bradley in 1:18-cv-04051;
5. The LBR Capital Pension Plan and Doston Bradley in 1:18-cv-04052;
6. The Atlantic DHR 401K Plan and Doston Bradley in 1:18-cv-04430;
7. The Aston Advisors LLC 401K Plan and Roger Lehman in 1:18-cv-04470;
8. The Sector 230 LLC 401K Plan in 1:18-cv-04771;
9. The Busby Black 401K Plan and Doston Bradley in 1:18-cv-04522;
10. The Canada Rock LLC 401K Plan and Doston Bradley in 1:18-cv-04531;
11. The ISDB Pension Plan and Doston Bradley in 1:18-cv-04536;
12. The Monin Amper Pension Plan and Doston Bradley in 1:18-cv-04538;
13. The NYC Stanismore Pension Plan and Doston Bradley in 1:18-cv-04541;
14. The Texas Rocco LLC 401K Plan and Doston Bradley in 1:18-cv-04543;
15. Sanford Villa Pension Plan and Roger Lehman in 1:18-cv-04767;
16. The M2F Wellness LLC 401K Plan and Mitchell Protass in 1:18-cv-04890;
17. The MPQ Holdings LLC 401K Plan and Mitchell Protass in 1:18-cv-04892;
18. The TKKJ LLC 401K Plan and Thomas Kertelits in 1:18-cv-04896;
19. NYCATX LLC Solo 401K Plan and Carl Andrew Vergari in 1:18-cv-04898;
20. Ackview Solo 401K Plan and Sean Driscoll in 1:18-cv-04900;
21. The Dosmon Bly Pension Plan and Doston Bradley in 1:18-cv-05045;

22. The India Bombay LLC 401K Pension Plan and Doston Bradley in 1:18-cv-05057;
23. The Aria Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05147;
24. The Belforte Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05150;
25. The Bravos Advisors 401K Plan, Bradley Crescenzo, Roger Lehman and Gavin Crescenzo in 1:18-cv-05151;
26. The Costello Advisors Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05158;
27. The Eskin Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05164;
28. The Fieldcrest Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05180;
29. The Westport Advisors LLC 401K Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05183;
30. The Kodiak Capital Pension Plan, Bradley Crescenzo, Roger Lehman and Gavin Crescenzo in 1:18-cv-05185;
31. The Kyber Pension Plan, Bradley Crescenzo, Roger Lehman and Gavin Crescenzo in 1:18-cv-05186;
32. The Lerici Capital Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05188;
33. The Ludlow Holdings 401K Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05189;
34. The Regoleth Pension Plan, Bradley Crescenzo, Roger Lehman and Gavin Crescenzo in 1:18-cv-05190;
35. The Saba Capital LLC 401K Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05192;
36. The West River Pension Plan, Roger Lehman and Gavin Crescenzo in 1:18-cv-05193;
37. The Stark Pension Plan, Bradley Crescenzo, Roger Lehman and Gavin Crescenzo in 1:18-cv-05194;

38. The Petkov Partners Pension Plan, Roger Lehman and Svetlin Petkov in 1:18-cv-05299;
39. The Petkov Management LLC 401K Plan and Svetlin Petkov in 1:18-cv-05300;
40. The SVP 401K Plan, Roger Lehman and Svetlin Petkov in 1:18-cv-05305;
41. The Krabi Holdings LLC 401K Plan and Gavin Crescenzo in 1:18-cv-05307;
42. The SPKK LLC 401K Plan, Roger Lehman and Svetlin Petkov in 1:18-cv-05308;
43. The KASV Group Pension Plan, Roger Lehman and Svetlin Petkov in 1:18-cv-05309;
44. The 78 Yorktown Pension Plan and Roger Lehman in 1:18-cv-09565;
45. The Cambridge Town Line Pension Plan and Roger Lehman in 1:18-cv-09570;
46. The Diamond Scott Capital Pension Plan and Roger Lehman in 1:18-cv-09587;
47. The Hotel Fromance Pension Plan and Roger Lehman in 1:18-cv-09588;
48. The Mountain Air LLC 401K Plan and Roger Lehman in 1:18-cv-09589;
49. The SKSL LLC Pension Plan and Roger Lehman in 1:18-cv-09590;
50. The Snow Hill Pension Plan and Roger Lehman in 1:18-cv-09650;
51. The Westridge Ave LLC 401K Pension Plan and Roger Lehman in 1:18-cv-09665;
52. The Shapiro Blue Management LLC 401K Plan and Roger Lehman in 1:18-cv-09666;
53. The Balmoral Management LLC 401K Pension Plan and John LaChance in 1:18-cv-10067;
54. The Patrick Partners Conglomerate Pension Plan and Roger Lehman in 1:18-cv-09668;
55. CSCC Capital Pension Plan and Roger Lehman in 1:18-cv-09669;

56. The Cardinal Consulting Pension Plan and Matthew Tucci in 1:18-cv-10028;
57. The Egret Associates LLC 401K Plan and Matthew Tucci in 1:18-cv-10030;
58. The Crow Associates Pension Plan and Matthew Tucci in 1:18-cv-10031;
59. The Heron Advisors Pension Plan and Matthew Tucci in 1:18-cv-10032;
60. The Hoboken Advisors LLC 401K Plan and Matthew Tucci in 1:18-cv-10035;
61. The Jayfran Blue Pension Plan and Matthew Tucci in 1:18-cv-10036;
62. The JT Health Consulting LLC 401K Plan and Matthew Tucci in 1:18-cv-10039;
63. The Lakeview Advisors 401K Plan and Matthew Tucci in 1:18-cv-10049;
64. The Osprey Associates LLC 401K Plan and Matthew Tucci in 1:18-cv-10060;
65. The Sandpiper Pension Plan and Matthew Tucci in 1:18-cv-10061;
66. The Zen Training LLC 401(K) Plan and Matthew Tucci in 1:18-cv-10062;
67. The Everything Clean LLC 401K Plan and Matthew Tucci in 1:18-cv-10063;
68. The Jump Group LLC 401K Plan and Matthew Tucci in 1:18-cv-10064;
69. The Oaks Group Pension Plan and Matthew Tucci in 1:18-cv-10065;
70. The Wave Maven LLC 401K Plan and Matthew Tucci in 1:18-cv-10066;
71. The Beech Tree Partners 401K Plan and Matthew Tucci in 1:18-cv-10069;
72. The Blackbird 401K Plan and Matthew Tucci in 1:18-cv-10070;
73. The Chambers Property Management LLC 401K Plan and Matthew Tucci in 1:18-cv-10071;
74. FiftyEightSixty LLC Solo 401K Plan and Matthew Tucci in 1:18-cv-10073;
75. The Hawk Group Pension Plan and Matthew Tucci in 1:18-cv-10074;

76. The Hibiscus Partners LLC 401K Plan and Matthew Tucci in 1:18-cv-10076;
77. The Maple Advisors LLC 401K Plan and Matthew Tucci in 1:18-cv-10077;
78. OneZeroFive LLC Solo 401K Plan and Matthew Tucci in 1:18-cv-10080;
79. The Sea Bright Advisors LLC 401K Plan and Matthew Tucci in 1:18-cv-10082;
80. The TAG Realty Advisors 401K and Matthew Tucci in 1:18-cv-10083;
81. The Throckmorton Advisors 401K Plan and Matthew Tucci in 1:18-cv-10086;
82. The Dink 14 LLC 401K Plan and Vincent Natoli in 1:18-cv-10091;
83. JML Capital LLC 401K Plan, Roger Lehman and John LaChance in 1:18-cv-10092;
84. Natoli Management Pension Plan, Roger Lehman and Vincent Natoli in 1:18-cv-10093;
85. Nova Fonta Trading LLC 401K Plan, Roger Lehman and Vincent Natoli in 1:18-cv-10094;
86. The Skybax LLC 401K Plan and Bradley Crescenzo in 1:18-cv-10095;
87. The Robin Daniel Pension Plan and Matthew Tucci in 1:18-cv-10096;
88. The FWC Capital LLC Pension Plan and Roger Lehman in 1:18-cv-10098;
89. The RDL Consulting Group LLC Pension Plan and Roger Lehman in 1:18-cv-10099;
90. Blackrain Pegasus LLC Solo 401K Plan and Doston Bradley in 1:18-cv-10119;
91. GYOS 23 LLC Solo 401K Plan and Doston Bradley in 1:18-cv-10122;
92. The Oak Tree One 401K Plan and Doston Bradley in 1:18-cv-10123;
93. The Joanne E. Bradley Solo 401K Plan and Doston Bradley in 1:18-cv-10124;
94. Delgado Fox LLC Solo 401K Plan and Doston Bradley in 1:18-cv-10125;

95. Pegasus Fox 23 LLC Solo 401K Plan and Doston Bradley in 1:18-cv-10126;
96. The Valerius LLC Solo 401K Plan and Roger Lehman in 1:18-cv-10129;
97. The Sinclair Pension Plan and Roger Lehman in 1:18-cv-10133;
98. The Green Group Site Pension Plan and Roger Lehman in 1:18-cv-10134;
99. The Mueller Investments Pension Plan and Roger Lehman in 1:18-cv-10135; and
100. The Bella Consultants Pension Plan and Roger Lehman in 1:18-cv-10136.